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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,477	01/18/2002	Thomas R. Borden	57434US002	6165
32692	7590	01/30/2004	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			BUI, THACH H	
			ART UNIT	PAPER NUMBER
			3752	
			DATE MAILED: 01/30/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/050,477

Applicant(s)

BORDEN ET AL

Examiner

Thach H Bui

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4. 6) ☐ Other: .

**DETAILED ACTION**

***Information Disclosure Statement***

1. Applicant's prior art citation filed January 18, 2002 and April 08, 2003 has been received, considered and placed of record.

***Claim Objections***

2. Claim 31 is objected to because of the following informalities: "the apparatus is further attached to a cart having wheels" is not clearly recited. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 19, 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 19, "a ribbon extrusion head" is not clearly described.

Regarding claim 30, "a harness" is not clearly described.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9, 11-14, 17-21 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simmen (U.S. Patent No. 5,333,760).

Simmen teaches a mean and method for applying two components e.g. metered handheld gun-type applicator onto a surface comprising a two-component composition wherein a first part is provided in a first chamber (22) and a second part is provided in a second chamber (24). The chambers are filled with the components and at the time of filling the chambers and/or cartridges are not attached to the mixer (col. 4, lines 34-47). The apparatus includes a mean for advancing the first part and the second part (32 and 34) into a mixing device (i.e. a rigid, disposable static mixer) (77, 60) forming a mixture and dispensing the mixture. Simmen teaches a dispensing apparatus having a molded plastic (i.e. rigid housing), removable and disposable cartridge (col. 2, lines 66-68) (see Fig. 4 and 5). Simmen has all the features of the invention but Simmen failed to teach specifically the volume of the first and second chambers ranging from about 0.1 liters to about 10 liters, the applicator provides a continuous line having a width of at least about 15 cm and/or a film thickness of at least about 0.25mm to 15cm and the cartridges comprise lined cardboard. It would have been obvious matter of design choice to have

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the first and second chambers with the volume ranging from about 0.1 liters to about 10 liters to hold the material for dispensing, and the cartridges comprise lined cardboard, since applicant has not disclosed that the first and second chambers with the volume ranging from about 0.1 liters to about 10 liters to hold the material for dispensing and the cartridges comprise lined cardboard solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the teachings of Simmen. Further, it would have been obvious to one skilled artisan in the art to provide a different nozzle to have the applicator provides a continuous line having a width of at least about 15 cm and/or a film thickness of at least about 0.25mm to 15cm depending on the viscosity of the material to be dispensed. Furthermore, it would have been obvious to one skilled artisan to use the apparatus for applying the material onto a pavement surface to have marking(s) on the pavement. Methods follow by apparatus.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simmen in view of Summons et al. (U.S. Patent No. 6,464,112).

Simmen has all the features of the invention but Simmen failed to teach the removable collapsible tubes within the first and second chambers. Summons et al. teach the removable collapsible tubes within the first and second chambers (see Fig. 8D and 8E). It would have been obvious to one skilled artisan in the art to modify the teachings of Simmen and combine with Summons et al. to have the removable collapsible tubes within the first and second chambers to provide a better means in disposing the tubes.

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6. Claims 15-16, 22-35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simmen in view of Wasmire (U.S. Patent No. 5,893,486).

Simmen has all the features of the invention (as mention above) but Simmen failed to teach a spray head. Wasmire teaches a spray head of which dispenses the material at 40psi (i.e. high pressure) (88). It would have been obvious to one skilled artisan in the art to modify the teachings of Simmen and combine with Wasmire to have a spraying apparatus with a spray head dispensing the material at high pressure.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 703-305-0063. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

A handwritten signature in black ink, appearing to read 'Thach H. Bui', with a stylized flourish at the end.

Thach H. Bui  
Patent Examiner  
AU3752